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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Oct 29, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA.

2:20-CR-00040-WFN

Plaintiff,

## Plea Agreement

V.

Pursuant to Federal Rule of Criminal  
Procedure 11(c)(1)(C)

## DANIEL OSORNO.

## Global Disposition with the State of Washington

Defendant.

Court:  
Hon. Wm Fremming Nielsen  
Senior United States District Judge

Plaintiff United States of America, by and through William D. Hyslop, United States Attorney for the Eastern District of Washington, and David M. Herzog, Assistant United States Attorney, and the State of Washington, by and through Larry Haskell, Prosecuting Attorney for Spokane County, Washington, and Kelly Fitzgerald, Amanda Fry, or Eugene Cruz, Deputy Prosecuting Attorney for Spokane County, and Defendant Daniel Osorno (“Defendant”), both individually and by and through Federal Defender Andrea George, Defendant’s federal defense counsel, and Public Defender Annie Wasilewski, Defendant’s state defense counsel, agree to the following Plea Agreement.

## Introduction

Defendant has been charged in state and federal court with a number of child exploitation offenses.

On December 4, 2019, Defendant was charged in Spokane County Superior Court, Case Number 19-1-04568-32, with Rape of a Child in the First Degree, in violation of RCW § 9A.44.073(1) (Counts I through V) and Child Molestation in the First Degree, in violation of RCW § 9A.44.083(1) (Counts VI through VIII). Each of Defendant's state charges alleges aggravating factors under Washington law.

On March 17, 2020, a federal Grand Jury returned an Indictment charging Defendant with four counts of Production of Child Pornography, in violation of 18 U.S.C. § 2251(a), (e) (Counts 1 through 4).

Defendant wishes to resolve all of these federal and state charges as part of a single, global resolution. The United States Attorney's Office for the Eastern District of Washington and the Spokane County Prosecutor's Office agree to such a resolution, as set forth herein.

## 1. Guilty Plea and Maximum Statutory Penalties

Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), Defendant agrees to plead guilty to Counts 1 and 3 of the Indictment filed on March 17, 2020, each of which charges Defendant with Production of Child Pornography, in violation of 18 U.S.C. § 2251(a), (e), a Class B felony.

Defendant understands that for each count of Production of Child Pornography, the penalties set forth in the remaining portion of this paragraph apply. The minimum penalty is 15 years in prison, and the maximum penalty is 30 years in prison. Defendant will be subject to a fine of up to \$250,000; a term of supervised release that will be at least 5 years, and may be up to a lifetime; restitution; a \$100 special penalty assessment, and registration as a sex offender. Absent a finding of indigence by the Court, Defendant will also be subject to a \$5,000 special assessment, pursuant to the Justice for Victims of Trafficking Act of 2015. Pursuant to the Amy, Vicky, and Andy

1 Child Pornography Victim Assistance Act of 2018 (“the AVAA”) the Court shall also  
2 impose, in addition to any other criminal penalty, restitution, or special assessment  
3 authorized by law, an additional assessment of up to \$50,000 as set forth in 18 U.S.C.  
4 § 2259A. Pursuant to 18 U.S.C. § 2259A(c), in determining the amount of the AVAA  
5 assessment, the Court shall consider the factors set forth in 18 U.S.C. §§ 3553(a), 3572.

6 Accordingly, Defendant understands that if the Court were to impose consecutive  
7 maximum sentences on the federal charges to which he is pleading guilty, his sentence  
8 would be: 60 years in prison, a lifetime of supervised release, a fine of up to \$500,000,  
9 restitution, \$200 in standard special assessments, \$10,000 in special assessments  
10 pursuant to the Justice for Victims of Trafficking Act of 2015, and up to \$100,000 in  
11 assessments pursuant to the AVAA.

12 Defendant further understands that a violation of a condition of his federal  
13 supervised release carries an additional penalty of re-imprisonment for all or part of the  
14 term of supervised release, pursuant to 18 U.S.C. § 3583(e)(3), without credit for time  
15 previously served on post-release supervision. Defendant also specifically understands  
16 that he will be required to pay restitution and register as a sex offender.

17 2. The Court is Not a Party to the Agreement

18 Defendant understands and acknowledges that the Court is not a party to this Plea  
19 Agreement and may accept or reject this Plea Agreement.

20 Defendant understands that sentencing is a matter that is solely within the  
21 discretion of the Court.

22 Defendant understands that the Court is under no obligation to accept any  
23 recommendations made by the United States or Defendant; that the Court will obtain an  
24 independent report and sentencing recommendation from the U.S. Probation Office; and  
25 that the Court may, in its discretion, impose any sentence it deems appropriate up to the  
26 statutory maximums stated in this Plea Agreement.

1 Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the United States  
2 and Defendant agree that the appropriate disposition of the case is 28 years in custody  
3 (336 months), to be followed by a lifetime of supervised release. The United States and  
4 Defendant agree to make those sentencing recommendations to the Court.

5 Pursuant to this Plea Agreement, the Spokane County Prosecutor's Office agrees  
6 to dismiss all pending criminal charges against Defendant, and not to file new charges  
7 arising from conduct by Defendant that occurred prior to the date that Defendant enters  
8 a guilty plea in United States District Court on the charges set forth herein, so long as  
9 the conduct giving rise to those charges was known to the Spokane County Prosecutor's  
10 Office at the time Defendant enters a guilty plea in the above-captioned case.

11 Defendant understands that this Plea Agreement does not limit any law  
12 enforcement agency or prosecuting authority from investigating and/or charging  
13 Defendant with any new criminal conduct or violations of Supervised Release that arise  
14 during or after his incarceration on these charges. Defendant acknowledges that no  
15 promises of any type have been made to him with respect to the sentence the Court will  
16 ultimately impose. Defendant understands that the Court is required to consider the  
17 applicable Sentencing Guidelines range, but may depart upward or downward.

18 Defendant acknowledges that this Plea Agreement is entered pursuant to Fed. R.  
19 Crim. 11(c)(1)(C). Defendant understands that he may withdraw from this Plea  
20 Agreement if the Court imposes a term of imprisonment greater than 28 years.  
21 Defendant also understands that the United States may withdraw from this Plea  
22 Agreement if the Court imposes a term of imprisonment less than 28 years or a term of  
23 supervised release less than the remainder of Defendant's life.

24 Defendant acknowledges that if either he or the United States successfully  
25 withdraws from this Plea Agreement, the Plea Agreement becomes a nullity, and  
26 neither the United States, nor the Spokane County Prosecutor's Office are bound by any  
27 representations within it.

1        The United States and Defendant acknowledge that the imposition of a fine,  
2 restitution, and/or supervised release conditions are not part of the Rule 11(c)(1)(C)  
3 nature of this Plea Agreement; that the United States and Defendant are each free to  
4 make any recommendation they deem appropriate as to the imposition of a fine,  
5 restitution, and/or supervised release conditions; and that the Court will exercise its  
6 discretion with regard to the imposition of a fine, restitution, and/or supervised release  
7 conditions. Defendant acknowledges that he may not withdraw from this Plea  
8 Agreement based on the Court's decisions regarding a fine, restitution, and/or  
9 supervised release conditions.

10        3.        Effect on Immigration Status

11        Defendant recognizes that pleading guilty may have consequences with respect to  
12 his immigration status if he is not a citizen of the United States. Under federal law, a  
13 broad range of crimes may be removable offenses, including the offenses to which  
14 Defendant is pleading guilty. Removal and other immigration consequences are the  
15 subject of a separate proceeding, however, and Defendant understands that while  
16 deportation and/or removal appears to be a virtual certainty if he is not a citizen of the  
17 United States, no one, including his attorney or the District Court, can predict with  
18 absolute certainty the effect of conviction on his immigration status. Defendant  
19 nevertheless affirms that he wants to plead guilty regardless of any immigration  
20 consequences that his plea may entail, even if automatic removal from the United States  
21 is a virtual certainty if he is not a United States citizen.

22        4.        Waiver of Constitutional Rights

23        Defendant understands that by entering guilty pleas, he is knowingly and  
24 voluntarily waiving certain constitutional rights, including:

25            a.        The right to a jury trial;  
26            b.        The right to see, hear and question the witnesses;  
27            c.        The right to remain silent at trial;  
28            d.        The right to testify at trial; and

e. The right to compel witnesses to testify.

While Defendant is waiving certain constitutional rights, he understands that he retains the right to be assisted through sentencing and direct appeal of his conviction and sentence by an attorney, who will be appointed at no cost if he cannot afford to hire one. Defendant specifically waives his right to challenge the constitutionality of the statute of conviction.

## 5. Elements of the Offenses

*Count One: Production of Child Pornography of Minor Victim 1*

To convict Defendant of Production of Child Pornography of Minor Victim 1, in violation of 18 U.S.C. § 2251(a), (e), as charged in Count 1 of the Indictment, the United States would have to prove the following beyond a reasonable doubt:

- a. *First*, beginning in or about June 2016, and continuing through on or about October 22, 2019, within the Eastern District of Washington, Defendant employed, used, persuaded, induced, coerced or enticed Minor Victim 1 to take part in sexually explicit conduct for the purpose of producing a visual depiction of that conduct;
- b. *Second*, at the time of Defendant's conduct, Minor Victim 1 was a minor, that is, she had not attained the age of eighteen years; and
- c. *Third*, such visual depiction was produced using materials that had been mailed or shipped or transported in and affecting interstate or foreign commerce by any means, including by computer.

### Count Three: Production of Child Pornography of Minor Victim 2

To convict Defendant of Production of Child Pornography of Minor Victim 2, in violation of 18 U.S.C. § 2251(a), (e), as charged in Count 3 of the Indictment, the United States would have to prove the following beyond a reasonable doubt:

a. *First, beginning in or about June 2016, and continuing through on or about October 22, 2019, within the Eastern District of Washington, Defendant employed, used, persuaded, induced, coerced or enticed*

1 Minor Victim 2 to take part in sexually explicit conduct for the  
2 purpose of producing a visual depiction of that conduct;

3 b. *Second*, at the time of Defendant's conduct, Minor Victim 2 was a  
4 minor, that is, she had not attained the age of eighteen years; and  
5 c. *Third*, such visual depiction was produced using materials that had  
6 been mailed or shipped or transported in and affecting interstate or  
7 foreign commerce by any means, including by computer.

8 **6. Factual Basis and Statement of Facts**

9 The United States and Defendant stipulate and agree that the following facts are  
10 accurate; that the United States could prove these facts beyond a reasonable doubt at  
11 trial; and that these facts constitute an adequate factual basis for Defendant's guilty  
12 plea. This factual basis and statement of facts does not preclude either party from  
13 presenting and arguing, for sentencing purposes, additional facts which are relevant to  
14 the Guidelines computation or sentencing, unless otherwise prohibited in this  
15 Agreement.

16 **Summary of Facts**

17 Beginning in June 2016, and continuing through October 22, 2019, within the  
18 Eastern District of Washington, Defendant employed, used, persuaded, induced,  
19 coerced and enticed Minor Victims 1 and 2, to take part in sexually explicit conduct  
20 with him for the purpose of producing visual depictions of that conduct. At all times  
21 relevant to this Indictment, Minor Victims 1 and 2 were each minors who had not  
22 attained the age of 18 years. During Defendant's production of child pornography of  
23 Minor Victims 1 and 2, Minor Victim 1 had not yet attained the age of 8 years old, and  
24 Minor Victim 2 had not yet attained the age of 4 years old.

25 Defendant acknowledges that he produced visual depictions of Minor Victims 1  
26 and 2 engaging in sexually explicit conduct with him using materials that had been  
27 mailed or shipped or transported in and affecting interstate or foreign commerce by any  
28 means, including by computer.

Defendant acknowledges that each digital device that he used to record or preserve images of himself engaging in illicit sexual conduct with Minor Victims 1 and 2 was manufactured outside the State of Washington, and therefore had been mailed or shipped or transported in and affecting interstate or foreign commerce.

Specifically, beginning when Minor Victims 1 and 2 were each approximately three years old, and continuing until his arrest in October 2019, Defendant repeatedly engaged in illicit sexual conduct with Minor Victims 1 and 2 while babysitting them in the basement of his home. Defendant used his fingers and tongue to penetrate the mouths and vaginas of Minor Victims 1 and 2, and used electronic devices to record and preserve more than 25 videos and more than 500 still photographs of this conduct.

Defendant acknowledges that among the child pornography that Defendant produced were the following images and videos, as charged in the following counts in the Indictment:

## COUNT 1

A series of five still images bearing the filenames “GEDC0830.jpg”, “GEDC0834.jpg”, “GEDC0835.jpg”, “GEDC0836.jpg”, and “GEDC0836\_LI.jpg”.

## COUNT 3

A series of 40 still images bearing the filenames “!SPX0001.jpg” (7 images), “!SPX0002.jpg” (5 images), “!SPX0003.jpg” (4 images), “!SPX0004.jpg” (4 images), “!SPX0005.jpg” (4 images), “!SPX0006.jpg” (4 images), “!SPX0007.jpg” (3 images), “!SPX0008.jpg” (4 images), “!SPX0009.jpg” (3 images), and “!SPX0010.jpg” (2 images).

Defendant also acknowledges that he showed Minor Victims 1 and 2 various kinds of pornography to groom them, and instructed Minor Victims 1 and 2 not to tell anyone what he did to them.

1       7. Agreements To Dismiss and Not File Additional Charges

2       The United States Attorney's Office for the Eastern District of Washington  
3 agrees to dismiss Counts 2 and 4 of the Indictment at the conclusion of the sentencing  
4 hearing in this case.

5       The United States Attorney's Office for the Eastern District of Washington and  
6 the Spokane County Prosecutors' Office agree not to bring additional charges against  
7 Defendant based on information in their possession at the time of this Plea Agreement,  
8 unless Defendant breaches this Plea Agreement prior to sentencing in this case.

9       Defendant understands that the United States Attorney's Office for the Eastern  
10 District of Washington and the Spokane County Prosecutors' Office are each free to  
11 criminally prosecute Defendant for any other past unlawful conduct or any unlawful  
12 conduct that occurs after the date of this Plea Agreement, so long as that conduct was  
13 not known to the United States Attorney's Office for the Eastern District of Washington  
14 and/or the Spokane County Prosecutors' Office, respectively, on the date that Defendant  
15 enters into a federal guilty plea based on this Plea Agreement.

16       If Defendant's guilty plea and this Plea Agreement are both accepted by the  
17 Court and Defendant is sentenced in federal court to a term of 28 years of confinement  
18 and a lifetime of federal Supervised Release, then: following the sentencing hearing in  
19 Defendant's federal case, the Spokane County Prosecutor's Office agrees to dismiss the  
20 following charges in Spokane County Superior Court Case Number 19-1-04568-32,  
21 alleged in an Information dated December 4, 2019:

22       a.      Rape of a Child in the First Degree, in violation of RCW  
23                   § 9A.44.073(1) (Counts I through V); and  
24       b.      Child Molestation in the First Degree, in violation of RCW  
25                   § 9A.44.083(1) (Counts VI through VIII).

1        8. Application of the United States Sentencing Guidelines

2        Defendant understands that the advisory United States Sentencing Guidelines  
 3 (hereinafter “U.S.S.G.”) are applicable to this case and that the Court will determine his  
 4 applicable sentencing guideline range at the time of sentencing.

5        The United States and Defendant agree that Defendant’s final adjusted offense  
 6 level is 43 under the United States Sentencing Guidelines.

7        a. Base Offense Level and Enhancements Under Chapter 2

8        The United States and Defendant agree that the following offense level and  
 9 enhancement calculations apply:

10 *Production of Child Pornography in violation of 18 U.S.C. § 2251(a), (e):*

11        Base Offense Level and/or Adjustments	12	13        Guideline Section
Child Pornography Production	32	U.S.S.G. § 2G2.1(a)
Victim Under 12 years old	+4	U.S.S.G. § 2G2.1(b)(1)
Sexual act and sexual contact	+2	U.S.S.G. § 2G2.1(b)(2)(A)
Material portraying toddlers	+4	U.S.S.G. § 2G2.1(b)(4)
Defendant was relative of victims	+2	U.S.S.G. § 2G2.1(b)(5)
Total	44	

17        b. Grouping and Acceptance of Responsibility Under Chapter 3

18        The United States and Defendant agree that his counts of conviction are  
 19 specifically excluded from grouping analysis under the United States Sentencing  
 20 Guidelines. *See* U.S.S.G. §§ 2G2.1(d)(1), 3D1.2(d). The United States and Defendant  
 21 agree that Defendant’s charged conduct thus includes two groups, each at offense level  
 22 44, resulting in two units and a 2-level increase to Defendant’s highest offense level,  
 23 pursuant to U.S.S.G. § 3D1.4. Accordingly, the United States and Defendant agree that  
 24 Defendant’s highest offense level of 44 is increased by 2 levels, yielding an offense  
 25 level of 46 prior to any reduction for acceptance of responsibility or any adjustments  
 26 pursuant to Chapter 4. U.S.S.G. § 3D1.4. The United States and Defendant agree that  
 27 with acceptance of responsibility, Defendant’s final adjusted offense level under  
 28 Chapters 2 and 3 is level 43.

c. Repeat and Dangerous Sex Offender Under Chapter 4

The United States and Defendant also agree that under Chapter 4 of the United States Sentencing Guidelines, Defendant's offense level is increased by an additional five levels because he is a Repeat and Dangerous Sex Offender pursuant to U.S.S.G. § 4B1.5(b)(1).

The United States and Defendant agree that each of Defendant's offenses of conviction is a "covered sex crime" under U.S.S.G. § 4B1.5(b)(1) because each offense is an "offense, perpetrated against a minor" under 18 U.S.C. §§ 2251(a), (e), which falls under Chapter 110 of the United States Code, and is not a crime of transmitting information about a minor or filing a factual statement about an alien individual. U.S.S.G. § 4B1.5, App. Note 2.

The United States and Defendant also agree that Defendant engaged in a pattern of activity involving prohibited sexual conduct with a minor by engaging on at least two occasions in “prohibited sexual conduct with a minor.” U.S.S.G. § 4B1.5, App. Note 4(B)(i). For purposes of subsection (b) of U.S.S.G. § 4B1.5, “prohibited sexual conduct” includes “the production of child pornography[.]” U.S.S.G. § 4B1.5, App. Note 4(A).

Accordingly, under Chapter 4, Defendant's offense level under Chapters 2 and 3 is increased by five levels to level 48. However, because of the application of Chapter 5, Application Note 2, Defendant's offense level is capped at level 43.

d. Recommendations to the Court

Defendant agrees not to dispute or challenge any of the Guidelines analyses or calculations set forth herein.

Regardless of any calculations made by the United States Probation Office, the United States and Defendant agree to: (a) recommend to the Court that Defendant's correct offense level under the United States Guidelines is level 43; and (b) recommend that the Court impose a final sentence of 28 years (336 months), followed by a lifetime of supervised release.

e. Acceptance of Responsibility

If Defendant pleads guilty and demonstrates a recognition and an affirmative acceptance of personal responsibility for the criminal conduct; provides complete and accurate information during the sentencing process; does not commit any obstructive conduct; accepts this Plea Agreement; and signs and provides this Plea Agreement for filing with the court prior to October 29, 2020, the United States will move for a three-level downward adjustment in offense level for his timely acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a) and (b).

Defendant and the United States agree that the United States may at its option and upon written notice to Defendant, not recommend a three-level downward reduction for acceptance of responsibility if, after his guilty plea but prior to the imposition of sentence, he is charged or convicted of any criminal offense or tests positive for any controlled substance.

f. Criminal History

The United States and Defendant understand that Defendant's criminal history computation is tentative and that ultimately Defendant's criminal history category will be determined by the Court after review of the Presentence Investigative Report.

The United States and Defendant have made no agreement and make no representations as to the criminal history category, which will be determined after the Presentence Investigative Report is completed.

## 9. Incarceration

The United States and Defendant agree that this plea agreement is entered pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), and that the appropriate disposition of the case is a sentence that includes 28 years (336 months) of incarceration and the imposition of a lifetime term of supervised release.

The United States and Defendant each agree to recommend this sentence to the Court.

1           10. Supervised Release

2           The United States and Defendant each agree to recommend that the Court impose  
3 a lifetime of supervised release, and that Defendant's terms of supervised release will  
4 include the following special conditions, in addition to the standard conditions of  
5 supervised release and the special conditions of supervised release that are imposed in  
6 all child sex offender cases in this District:

7           a. Defendant shall not contact Minor Victims 1 or 2 in any manner,  
8                   whether directly or indirectly, or through an intermediary.

9           b. The United States Probation Officer may conduct, upon reasonable  
10                   suspicion, and with or without notice, a search of Defendant's  
11                   person, residences, offices, vehicles, belongings, and areas under  
12                   Defendant's exclusive or joint control.

13           c. Defendant shall report to the Probation Office any and all electronic  
14                   communications service accounts, as defined in 18 U.S.C.  
15                   § 2510(15) used for user communications, dissemination and/or  
16                   storage of digital media files (i.e. audio, video, images). This  
17                   includes, but is not limited to, email accounts, social media  
18                   accounts, and cloud storage accounts. Defendant shall provide each  
19                   account identifier and password, and shall report the creation of new  
20                   accounts, changes in identifiers and/or passwords, transfer,  
21                   suspension and/or deletion of any account within 5 days of such  
22                   action. Failure to provide accurate account information may be  
23                   grounds for revocation. The Probation Office is permitted to access  
24                   and search any accounts using Defendant's credentials pursuant to  
25                   this condition only when reasonable suspicion exists that Defendant  
26                   has violated a condition of his supervision and that the accounts to  
27                   be searched contain evidence of this violation.

1       11. Criminal Fine

2       The United States and Defendant are free to make whatever recommendation  
3 concerning the imposition of a criminal fine that they believe is appropriate.

4       12. Mandatory Special Penalty Assessment

5       Defendant agrees to pay the \$200 mandatory special penalty assessment to the  
6 Clerk of Court for the Eastern District of Washington, at or before sentencing, pursuant  
7 to 18 U.S.C. § 3013, and agrees to provide a receipt from the Clerk to the United States  
8 before sentencing as proof of this payment.

9       Defendant agrees that pursuant to the JVTA, an additional mandatory special  
10 assessment of \$5,000 per offense must be imposed upon conviction, absent a judicial  
11 finding of indigence.

12       13. Payments While Incarcerated

13       If Defendant lacks the financial resources to pay the monetary obligations  
14 imposed by the Court, Defendant agrees to earn money toward these obligations by  
15 participating in the Bureau of Prisons' Inmate Financial Responsibility Program.

16       14. Restitution

17       The United States and Defendant agree that restitution is required. *See* 18 U.S.C.  
18 §§ 2248, 2259, 3663A, and 3664. Pursuant to 18 U.S.C. § 3663(a)(3), Defendant  
19 voluntarily agrees to pay restitution for all losses suffered by Minor Victims 1 and 2 as  
20 a result of Defendant's conduct. With respect to restitution, the United States and  
21 Defendant agree to the following:

22           a. Restitution Amount and Interest

23       The United States and Defendant hereby stipulate and agree that, pursuant to 18  
24 U.S.C. §§ 3663, 3663A and 3664, the Court should order restitution in an amount to be  
25 determined at or before sentencing. The United States and Defendant agree that interest  
26 on this restitution amount, if any, should be waived.

27           b. Payments

28       To the extent that the Court orders restitution, the United States and Defendant

1 agree that the Court will set a restitution payment schedule based on his financial  
2 circumstances. *See* 18 U.S.C. § 3664(f)(2), (3)(A). Regardless, Defendant agrees to  
3 pay not less than 10% of his net monthly income towards any restitution obligation.

4                   c. Treasury Offset Program and Collection

5                   Defendant understands the Treasury Offset Program (“TOP”) collects delinquent  
6 debts owed to federal agencies. If applicable, the TOP may take part or all of  
7 Defendant’s federal tax refund, federal retirement benefits, or other federal benefits and  
8 apply these monies to Defendant’s restitution obligations. *See* 26 U.S.C. § 6402(d); 31  
9 U.S.C. § 3720A; 31 U.S.C. § 3716.

10                  Defendant also understands the United States may, notwithstanding the Court-  
11 imposed payment schedule, pursue other avenues to ensure the restitution obligation is  
12 satisfied, including, but not limited to, garnishment of available funds, wages, or assets.  
13 *See* 18 U.S.C. §§ 3572, 3613, and 3664(m). Nothing in this acknowledgment shall be  
14 construed to limit Defendant’s ability to assert any specifically identified exemptions as  
15 provided by law, except as set forth in this Plea Agreement.

16                  Until a fine or restitution order is paid in full, Defendant agrees fully to disclose  
17 all assets in which he has any interest or over which he exercises control. Until such  
18 time as the fine or restitution order is paid in full, Defendant agrees to provide waivers,  
19 consents or releases requested by the U.S. Attorney’s Office to access records to verify  
20 the financial information.

21                   d. Notifications and Waivers

22                  Defendant agrees to notify the Court and the United States of any material  
23 change in his economic circumstances (e.g., inheritances, monetary gifts, changed  
24 employment, or income increases) that might affect his ability to pay restitution. *See* 18  
25 U.S.C. § 3664(k). This obligation ceases when the restitution is paid-in-full.

26                  Defendant agrees to notify the United States of any address change within 30  
27 days of that change. *See* 18 U.S.C. § 3612(b)(1)(F). This obligation ceases when the  
28 restitution is paid-in-full.

1       Defendant acknowledges that the Court's decision regarding restitution is final,  
2 non-appealable, and not part of the Rule 11(c)(1)(C) nature of this Plea Agreement; that  
3 is, even if Defendant is unhappy with the amount of restitution ordered by the Court,  
4 that will not be a basis to withdraw his guilty pleas, withdraw from this Plea  
5 Agreement, or appeal his convictions, sentence, or restitution order.

6       15. Assets

7       Defendant voluntarily agrees to abandon and relinquish all right, title, and  
8 interest in all assets and/or items seized by the Spokane Police Department during the  
9 investigation of this case. Defendant voluntarily consents to the destruction of all assets  
10 and/or items seized by the Spokane Police Department during the investigation of this  
11 case. Defendant agrees to hold harmless all law enforcement agents and the United  
12 States, its agents, and its employees from any claims whatsoever arising in connection  
13 with the seizure, abandonment, and/or destruction of all assets and/or items seized by  
14 the Spokane Police Department during the investigation of this case. Defendant further  
15 waives notice of any federal, state, or local proceedings involving the seizure,  
16 abandonment and/or destruction of all assets and/or items seized by the Spokane Police  
17 Department during the investigation of this case.

18       16. Notice of Sex Offender Registration

19       Defendant has been advised and understands, that as a convicted sex offender,  
20 under the Sex Offender Registration and Notification Act, a federal law, Defendant  
21 must register and keep the registration current in each of the following jurisdictions: the  
22 location of Defendant's residence, the location of Defendant's employment; and, if  
23 Defendant is a student, the location of Defendant's school. Registration will require  
24 that Defendant provide information that includes name, residence address, and the  
25 names and addresses of any places at which Defendant is or will be an employee or a  
26 student. Defendant understands that Defendant must update Defendant's registrations  
27 not later than three business days after any change of name, residence, employment, or  
28 student status. Defendant understands that failure to comply with these obligations

1 subjects Defendant to prosecution for failure to register under federal law, 18 U.S.C.  
2 § 2250, which is punishable by a fine or imprisonment, or both.

3       17. Additional Violations of Law Can Void Plea Agreement

4       Defendant and the United States agree that the United States may at its option  
5 and upon written notice to Defendant, withdraw from this Plea Agreement or modify its  
6 recommendation for sentence if, after Defendant's guilty plea and prior to the  
7 imposition of sentence, Defendant is convicted of any criminal offense whatsoever or if  
8 Defendant tests positive for any controlled substance.

9       18. Waiver of Appeal Rights and Collateral Attack

10      Defendant is aware that 18 U.S.C. § 3742 affords Defendant the right to appeal  
11 Defendant's sentence. Acknowledging this, Defendant knowingly and voluntarily  
12 agrees to waive all constitutional and statutory rights to appeal his conviction and  
13 sentence so long as the Court sentences Defendant within the terms of this Rule  
14 11(c)(1)(C) Plea Agreement: 28 years of incarceration, to be followed by a lifetime  
15 term of Supervised Release. Defendant's appellate waiver includes, but is not limited  
16 to, challenges to the following: the terms of this Plea Agreement, his guilty plea, venue,  
17 the amount of restitution ordered by the Court, any Guidelines enhancements applied by  
18 the Court, the reasonableness of his sentence, any fine or Special Assessment imposed  
19 by the Court, any terms of supervised release imposed by the Court, and any statutes of  
20 limitation. Defendant expressly waives his right to file any post-conviction motion  
21 attacking his mental competence, plea, conviction, and/or sentence, including motions  
22 pursuant to 28 U.S.C. § 2255, 28 U.S.C. § 2241, and 18 U.S.C. § 3742, except a motion  
23 based on ineffective assistance of counsel arising from information not now known by  
24 him and which, in the exercise of due diligence, could not be known by him by the time  
25 the Court imposes sentence.

26      Nothing in this Agreement shall preclude the United States from opposing any  
27 post-conviction motion for a reduction of sentence or other attack of the conviction or  
28 sentence, including, but not limited to, proceedings pursuant to 28 U.S.C. § 2255.

1       19. Compassionate Release and Withdrawal or Vacatur of Defendant's Plea

2       Defendant specifically retains the right to bring a motion for Compassionate  
3       Release pursuant to the Fair Sentencing Act, and the United States specifically retains  
4       the ability to oppose such a motion.

5       However, if Defendant successfully moves to withdraw or vacate his plea,  
6       dismiss the underlying charges, or set aside his sentence on the counts to which he is  
7       pleading guilty, then the following provisions will apply:

- 8       a.       This Plea Agreement shall become null and void;
- 9       b.       The United States and Spokane County may prosecute Defendant on  
10       any count to which he has pleaded guilty;
- 11       c.       The United States and Spokane County may reinstate any counts  
12       that have been dismissed, have been superseded by the filing of an  
13       Information, or were not charged because of this Agreement;
- 14       d.       The United States and Spokane County may file any new charges  
15       that would otherwise be barred by this Agreement;
- 16       e.       The United States and Spokane County may prosecute Defendant on  
17       all available charges involving or arising from the incidents charged  
18       in any charging instrument in this case or the case in Spokane  
19       County;
- 20       f.       The decision to pursue any or all of these options is solely in the  
21       discretion of the United States Attorney's Office and/or the  
22       Prosecuting Attorney's Office for Spokane County;
- 23       g.       Defendant agrees to waive any objections, motions, and/or defenses  
24       he might have to the United States' or Spokane County's re-  
25       initiation of prosecution based on any alleged violation of Double  
26       Jeopardy; and
- 27       h.       Defendant agrees to waive any objections, motions, and/or defenses  
28       he might have to the United States' or Spokane County's re-

1 initiation of prosecution of charges arising from Defendant's  
2 conduct with Minor Victim 1 and/or Minor Victim 2 based on any  
3 alleged violations of any statutes of limitation, the Speedy Trial Act,  
4 or the Speedy Trial Clause of the Sixth Amendment.

5 **20. Global Disposition for Charged Conduct**

6 The Spokane County Prosecutor's Office agrees to dismiss, and not file, criminal  
7 charges against Defendant if the conditions set forth herein are met. Defendant  
8 acknowledges that if Defendant successfully withdraws from his federal guilty plea, all  
9 representations from the Spokane County Prosecutor's Office will be null and void.  
10 The Spokane County Prosecutor's Office makes no representations about prosecution of  
11 any future conduct by Defendant, or past criminal conduct that is not set forth in the  
12 factual basis of this Plea Agreement. The signature of a Deputy Prosecuting Attorney  
13 for Spokane County on this Plea Agreement serves as confirmation of all  
14 representations from the Spokane County Prosecutor's Office.

15 **21. Integration Clause**

16 The United States and Defendant acknowledge that this document constitutes the  
17 entire Plea Agreement between the United States and Defendant, and no other promises,  
18 agreements, or conditions exist between the United States and Defendant concerning  
19 the resolution of the case.

20 This Plea Agreement is binding only on the United States Attorney's Office for  
21 the Eastern District of Washington and the Spokane County Prosecutor's Office, as set  
22 forth herein, and cannot bind other federal, state, or local authorities.

23 The United States and Defendant agree that this Agreement cannot be modified  
24 except in a writing that is signed by the United States and Defendant.  
25  
26  
27  
28

1 Approvals and Signatures

2 Agreed and submitted on behalf of the United States Attorney's Office for the  
3 Eastern District of Washington.

4 William D. Hyslop  
5 United States Attorney



6 October 28, 2020

7 David M. Herzog  
8 Assistant U.S. Attorney

\_\_\_\_\_

9 Agreed and submitted on behalf of the Spokane County Prosecutor's Office.

10 Larry Haskell  
11 Spokane County Prosecuting Attorney

12  
13  
14 Kelly Fitzgerald  
15 Amanda Fry  
16 Eugene Cruz  
17 Deputy Prosecuting Attorney  
18 Spokane County Prosecutor's Office

\_\_\_\_\_

19 I have read this Plea Agreement and have carefully reviewed and discussed every  
20 part of the agreement with my state and federal attorneys. I understand and voluntarily  
21 enter into this Plea Agreement. Furthermore, I have consulted with my state and federal  
22 attorneys about my rights, I understand those rights, and I am satisfied with the  
23 representation of my state and federal attorneys in this case. No other promises or  
24 inducements have been made to me, other than those contained in this Plea Agreement  
25 and no one has threatened or forced me in any way to enter into this Plea Agreement. I  
26 agree to plead guilty because I am guilty.

27 Daniel Osorno  
28 Defendant

\_\_\_\_\_

1 Approvals and Signatures

2 Agreed and submitted on behalf of the United States Attorney's Office for the  
3 Eastern District of Washington.

4 William D. Hyslop  
5 United States Attorney

6

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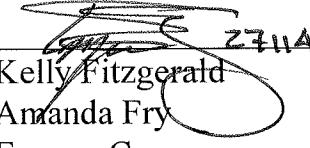
7 David M. Herzog  
8 Assistant U.S. Attorney

Date

9 Agreed and submitted on behalf of the Spokane County Prosecutor's Office.  
10 Larry Haskell  
11 Spokane County Prosecuting Attorney

12

---

13  Kelly Fitzgerald  
14 Amanda Fry  
15 Eugene Cruz  
16 Deputy Prosecuting Attorney  
17 Spokane County Prosecutor's Office

OCTOBER 27, 2020  
Date

18 I have read this Plea Agreement and have carefully reviewed and discussed every  
19 part of the agreement with my state and federal attorneys. I understand and voluntarily  
20 enter into this Plea Agreement. Furthermore, I have consulted with my state and federal  
21 attorneys about my rights, I understand those rights, and I am satisfied with the  
22 representation of my state and federal attorneys in this case. No other promises or  
23 inducements have been made to me, other than those contained in this Plea Agreement  
24 and no one has threatened or forced me in any way to enter into this Plea Agreement. I  
25 agree to plead guilty because I am guilty.

26

---

27 Daniel Osorno  
28 Defendant

Date

### Approvals and Signatures

Agreed and submitted on behalf of the United States Attorney's Office for the Eastern District of Washington.

William D. Hyslop  
United States Attorney

David M. Herzog  
Assistant U.S. Attorney

---

Date

Agreed and submitted on behalf of the Spokane County Prosecutor's Office.

Larry Haskell  
Spokane County Prosecuting Attorney

Kelly Fitzgerald  
Amanda Fry  
Eugene Cruz  
Deputy Prosecuting Attorney  
Spokane County Prosecutor's Office

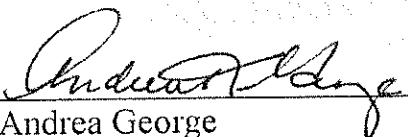
Date

I have read this Plea Agreement and have carefully reviewed and discussed every part of the agreement with my state and federal attorneys. I understand and voluntarily enter into this Plea Agreement. Furthermore, I have consulted with my state and federal attorneys about my rights, I understand those rights, and I am satisfied with the representation of my state and federal attorneys in this case. No other promises or inducements have been made to me, other than those contained in this Plea Agreement and no one has threatened or forced me in any way to enter into this Plea Agreement. I agree to plead guilty because I am guilty.

Daniel Osorno  
Defendant

10.27.20  
Date

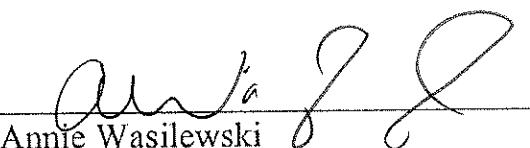
1 I have read the Plea Agreement and have discussed the contents of the agreement  
2 with my client. The Plea Agreement accurately and completely sets forth the entirety of  
3 the agreement between the United States and my client. I concur in my client's  
4 decision to plead guilty as set forth in the Plea Agreement. There is no legal reason  
5 why the Court should not accept my client's plea of guilty.

6   
7 Andrea George

10-27-2020

Date

8 Federal Defender for Eastern Washington & Idaho  
9 Federal Attorney for Defendant

10   
11 Annie Wasilewski

10 | 27 | 2020

Date

12 Spokane County Public Defender's Office  
13 State Attorney for Defendant